

Filed by: Judge Andrew H. Metz  
Box Interference  
Washington, D.C. 20231  
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Judge Andrew H. Metz)

MAILED

MAR 4 1995

PAT.&T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

W. FRENCH ANDERSON, R. MICHAEL  
BLAESE and STEVEN A. ROSENBERG  
Junior Party,<sup>1</sup>  
v.  
RICHARD F. SELDEN  
Junior Party,<sup>2</sup>  
v.  
JEFFREY R. MORGAN  
and RICHARD C. MULLIGAN  
Senior Party.<sup>3</sup>

Patent Interference No. 103,708

<sup>1</sup> Patent 5,399,346, issued March 21, 1995, based on Application 08/220,175, filed March 30, 1994. Accorded the benefit of Application 07/904,662, filed September 8, 1992 (ABN), Application 07/868,794, filed April 15, 1992 (ABN), Application 07/807,446, filed December 13, 1991 (ABN) and Application 07/365,567, filed June 14, 1989 (ABN). Assignors to Genetic Therapy, Inc.

<sup>2</sup> Application 08/465,582, filed June 5, 1995. Accorded the benefit of Application 08/312,444, filed September 26, 1994 (ABN), Application 08/180,701, filed January 13, 1994 (ABN), Application 07/918,927, filed July 22, 1992 (ABN), Application 07/787,760, filed November 6, 1991 (ABN) and Application 07/044,719, filed May 1, 1987 (ABN). The General Hospital Corporation.

<sup>3</sup> Application 08/153,275, filed November 16, 1993. Accorded the benefit of Application 07/613,209, filed November 13, 1990 (ABN), Application 07/292,885, filed January 3, 1989, now Patent No. 4,980,286, issued December 25, 1990, Application 06/883,590, filed July 9, 1986, now Patent No. 4,868,116, issued September 19, 1989 and Application 06/752,466, filed July 5, 1985 (ABN). Assignors to Whitehead Institute for Biomedical Research and Somatex Therapy Corporation.

Interference No. 103,708

REDECLARATION

Pursuant to the Order by the Administrative Patent Judge (APJ) mailed concurrently herewith, Interference Number 103,708 is hereby redeclared as follows:

The Eppstein et al. application Serial Number 08/609,702 is added to the interference. Hereinafter, this interference will be styled as Anderson et al. v. Selden v. Eppstein et al. v. Morgan et al.

The parties involved in this interference are:

Junior Party

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Application: 08/220,175 filed March 30, 1994, now Patent No. 5,399,346 issued March 21, 1995

Assignee: Genetic Therapy, Inc.

Attorney(s): James C. Haight, Gloria Richmond, Robert Benson, Jack Spiegel, Laurence J. Hyman, Susan S. Rucker, David R. Sadowski, Steve Ferguson, Stephen Finley, Cindy K. Fuchs and John P. Kim

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Accorded Benefit: Applications 07/904,662 filed September 8, 1992 (ABN), 07/868,794 filed April 15, 1992 (ABN), 07/807,446 filed December 13, 1991 (ABN) and 07/365,567 filed June 14, 1989

Address: William S. Feiler, Esq.  
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Junior Party

Applicant: Richard F. Selden  
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Application: 08/465,582 filed June 5, 1995

Assignee: The General Hospital Corporation

Attorney(s): Patricia Granahan, Charles E. Lipsey, Kenneth J. Meyers and Jerry D. Voight

Associate: Michael T. Siekman

Accorded benefit: Applications 08/312,444 filed September 26, 1994 (ABN), 08/180,701 filed January 13, 1994 (ABN), 07/918,927 filed July 22, 1992 (ABN), 07/787,760 filed November 6, 1991 (ABN) and 07/044,719 filed May 1, 1987 (ABN)

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Application: 08/609,702 filed March 1, 1996

Assignees: Syntex (U.S.A.) Inc.

Attorney(s): James E. Austin, Ping Chow, John A. Dhuey,  
Derek P. Freyberg, Alan M. Krubiner, Walter  
Kurz, Rupak Nag, William Schmonsees and  
Herwig von Morze

Associate: None

Accorded Benefit: Applications 08/348,635 filed December 2,  
1994; 08/237,807 filed May 4 1994, Patent No.  
5,622,712 issued April 22, 1997; 08/015,738  
filed February 10, 1993, Patent No. 5,366,737  
issued November 22, 1994; 07/614,412 filed  
November 16, 1990, Patent No. 5,208,036  
issued May 4, 1993; 07/524,257 filed May 15,  
1990, Patent No. 5,049,386 issued September  
17, 1991; 07/428,815 filed October 27, 1989,  
Patent No. 4,946,787 issued August 7, 1990;  
07/114,809 filed October 29, 1987, Patent No.  
4,897,355 issued January 30, 1990; 06/877,916  
filed June 24, 1986 (ABN); and 06/689,407  
filed January 7, 1985 (ABN)

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Senior Party

Applicants: Jeffrey R. Morgan  
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Richard C. Mulligan  
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Application: 08/153,275 filed November 16, 1993

Assignee: Whitehead Institute for Biomedical Research  
Somatex Therapy Corp.

Attorney(s) S. Leslie Misrock, Harry C. Jones, III, Berj A. Terzian, Gerald J. Flintoft, David Weild, III, Jonathan A. Marshall, Barry D. Rein, Stanton T. Lawrence, III, Isaac Jarkocsky, Joseph V. Colaianni, Charles E. McKenney, Philip T. Shannon, Francis E. Morris, Charles E. Miller, Gidon D. Stern, John J. Lauter, Jr., Brian M. Poissant, Brian D. Coggio, Rory J. Radding, Stephen J. Harbulak, Donald J. Goodell, James N. Palik, Thomas E. Friebel, Laura A. Coruzzi, Jennifer Gordon, Jon R. Stark, Allan A. Fanucci, Geraldine F. Baldwin, Victor N. Balancia, Samuel B. Abrams, Steven I. Wallach, Marcia H. Sundeen, Paul J. Zegger, Edmond R. Bannon, Bruce J. Barker, Adriane M. Antler, Ann L. Gisolfi, Mark A. Farley and James G. Markey

Associate: Daniel M Becker

Accorded Benefit: Applications 07/613,209 filed November 13, 1990 (ABN); 07/292,885 filed January 3, 1989, Patent No. 4,980,286 issued December 25, 1990; 06/883,590 filed July 9, 1986, Patent No. 4,868,116 issued September 19, 1989; and 06/752,466 filed July 5, 1985 (ABN)

Address: Daniel M. Becker  
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Interference No. 103,708

COUNT 1

A process for providing a human with a therapeutic protein comprising:

introducing human cells into a human, said human cells having been treated in vitro to insert therein a DNA segment encoding a therapeutic protein said human cells expressing in vivo in said human a therapeutically effective amount of said therapeutic protein.

The claims of the parties which correspond to this count are:

Anderson et al.: Claims 1-14

Selden: Claim 36

Eppstein et a.: Claims 71, 72, 75 and 78

Morgan et al.: Claims 30-34, 36 and 43-49

  
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Andrew H. Metz  
Administrative Patent Judge  
(703) 308-9797

**INTERFERENCE  
DIGEST**

Interference No. 103,708 Paper No. 14  
Name, W. French Anderson et al.  
Serial No. 08/220,175 Patent No. 5,399,346 granted 03/21/95  
Title, GENE THERAPY  
Filed, 03/30/94  
Interference with Selden v. Morgan et al.  
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**DECISION ON MOTIONS**

Examiner-in-Chief, \_\_\_\_\_ Dated, \_\_\_\_\_  
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**FINAL DECISION**

Board of Patent Appeals and Interferences, \_\_\_\_\_ Dated, \_\_\_\_\_  
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Court, \_\_\_\_\_ Dated, \_\_\_\_\_

**REMARKS**

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This should be placed in each application or patent involved in interference in addition to the interference letters.

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